

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 5/5/2022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
MERLIN MORENO-GRATINI,	:	
	:	
Plaintiff,	:	1:19-CV-5964-GHW
	:	
-v -	:	<u>ORDER</u>
	:	
THOMAS STICHT.	:	
	:	
Defendant.	:	
	:	
-----	X	
GREGORY H. WOODS, United States District Judge:		

On April 18, 2022, Magistrate Sarah Netburn issued a Report and Recommendation (“R&R”) recommending that the Court deny Petitioner Merlin Moreno-Gratini’s petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 because his claims were procedurally barred. Dkt. No. 42 at 18.

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within fourteen days of receiving a copy of the report. *Id.*; *see also* FED. R. CIV. P. 72(b)(2). The Court reviews for clear error those parts of the report and recommendation to which no party has timely objected. 28 U.S.C. § 636(b)(1)(A); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

No objection to the R&R was submitted within the fourteen-day window. The Court has reviewed the R&R for clear error and finds none. *See Braunstein v. Barber*, No. 06 Civ. 5978 (CS) (GAY), 2009 WL 1542707, at *1 (S.D.N.Y. June 2, 2009) (explaining that a “district court may adopt those portions of a report and recommendation to which no objections have been made, as long as no clear error is apparent from the face of the record.”). The Court, therefore, accepts and adopts

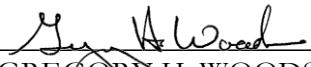
the R&R with respect to Petitioner's petition for a writ of habeas corpus. For the reasons articulated in the R&R, Petitioner Merlin Moreno-Gratini's petition for a writ of habeas corpus is denied.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk of Court is ordered to mail a copy of this order to Petitioner by certified mail, enter judgment for Respondent, and close this case.

SO ORDERED.

Dated: May 5, 2022
New York, New York



GREGORY H. WOODS
United States District Judge